

By: Ellis

S.B. No. 468

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the standard of proof in health care liability claims  
3 involving emergency care.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 74.153, Civil Practice and Remedies  
6 Code, is amended to read as follows:

7 Sec. 74.153. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY  
8 MEDICAL CARE. In a suit involving a health care liability claim  
9 against a physician or health care provider for injury to or death  
10 of a patient arising out of the provision of emergency medical care  
11 in a hospital emergency department or obstetrical unit or in a  
12 surgical suite immediately following the evaluation or treatment of  
13 a patient in a hospital emergency department, the claimant bringing  
14 the suit may prove that the treatment or lack of treatment by the  
15 physician or health care provider departed from accepted standards  
16 of medical care or health care only if the claimant shows by a  
17 preponderance of the evidence that the physician or health care  
18 provider [~~with wilful and wanton negligence,~~] deviated from the  
19 degree of care and skill that is reasonably expected of an  
20 ordinarily prudent physician or health care provider in the same or  
21 similar circumstances.

22 SECTION 2. The change in law made by this Act applies only  
23 to a cause of action that accrues on or after the effective date of  
24 this Act. A cause of action that accrues before the effective date

1 of this Act is governed by the law in effect immediately before that  
2 date, and that law is continued in effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2007.